

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

PATRICK L. GIDDEON,

Plaintiff,

-vs-

**Case No. 14-C-331
USCA Case No. 15-3464**

EDWARD FLYNN, et al.,

Defendants.

ORDER

On October 20, 2015, the Court issued an order granting the defendants' motion for summary judgment and dismissing this action. The plaintiff appealed and requested leave to proceed *in forma pauperis* on appeal. The Court granted the plaintiff's request on November 9, 2015, and ordered that he pay an initial partial filing fee of \$3.43. This matter is before the Court on the plaintiff's motion requesting that the initial partial filing fee be deducted from his release account. (ECF No. 88.)

The Prison Litigation Reform Act (PLRA) requires the Court to collect filing fees from a "prisoner's account." 28 U.S.C. § 1915(b). The term "prisoner's account" encompasses both a prisoner's release account and general account. *Spence v. McCaughtry*, 46 F. Supp. 2d 861, 862 (E.D. Wis. 1999). However, "given the purpose of the release account to provide

funds to the prisoner upon his or her release from incarceration, the Court does not deem it prudent to routinely focus on the release account as the initial source of funds to satisfy the filing fee payment requirements of the PLRA.” *Smith v. Huibregtse*, 151 F. Supp. 2d 1040 (E.D. Wis. 2001). Nevertheless, upon request, the Court may allow a plaintiff to pay a filing fee, or a portion thereof, out of his release account. *Doty v. Doyle*, 182 F. Supp. 2d 750, 752 (E.D. Wis. 2002).

The plaintiff has expressed a desire to have the initial partial filing fee (\$3.43) deducted from his release account, and he has stated that he has sufficient funds in his release account for that purpose. Accordingly, the Court will grant the plaintiff’s motion.

In addition, on November 9, 2015, the plaintiff requested that he be permitted to “designate other documents that are not usually made part of the appeal record.” (ECF No. 86.) Specifically, the plaintiff requests to include documents found at docket entries 14, 15, 16, 40, and 42. The Court grants the plaintiff’s request.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED that the plaintiff’s motion to pay the initial partial filing fee for his appeal from his release account (ECF No. 88) is **GRANTED**.

IT IS ALSO ORDERED that the warden at Oshkosh Correctional Institution shall withdraw \$3.43 from the plaintiff's release account and forward that sum to the Clerk of this Court as payment for the initial partial filing fee in the plaintiff's appeal. Such payment is to be made by **December 21, 2015**.

IT IS FURTHER ORDERED that a copy of this order be sent to the warden of Oshkosh Correctional Institution.

IT IS ALSO ORDERED that the plaintiff's request to designate other documents not usually made part of the appeal record (ECF No. 86) is **GRANTED**.

Dated at Milwaukee, Wisconsin, this 20th day of November, 2015.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge